

REMARKS

Claims 1, 3- 19, 21- 37, 39 – 55, and 57- 133 are pending. Claims 5, 15, 23, 33, 51, 57, 60, 70, 74- 77, have been amended, and no claims have been newly added. Reconsideration is respectfully requested.

The invention is directed to a phonological awareness, phonological processing and reading skill training system and method that trains and measures one or more different skills to train those one or more different skill areas.

Applicant wishes to thank the Examiner for her indication that Claims 3-4, 6, 15-16, 21-22, 24, 33-34, 39-40, 42, 51-52, 58-9, 61, 70-71, 96-98, 106-108, 116-118 and 126-128 would be allowable of rewritten in independent form including all of the limitations of the base claim and any intervening claims.

INFORMATION DISCLOSURE STATEMENT

Applicant is confused about the Examiner's statement regarding the other documents (articles) submitted with the prior IDS since Applicant submitted a legible copy of those documents. However, to avoid further delay, Applicant is resubmitting the articles in a new IDS (with the appropriate fee) with this response for consideration by the Examiner.

CLAIM OBJECTIONS

Applicant has corrected Claims 57 and 74- 77 and therefore the claim objections are overcome.

PRIOR ART REJECTIONS

In response to the Examiner's rejection of Claims 1, 5, 7-13, 18-19, 23, 25-31, 36-37, 41, 43-49, 54-55, 57, 60, 62-68, 73-95, 99-100, 102- 1-5, 109-110, 112-115, 119-120, 122- 125, 129-130 and 132-133 under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,692,906 to Corder (hereinafter "Corder") and the Examiner's rejection of Claims 14, 17, 32, 35, 50, 53, 69 and 72 under 35 USC 103(a) as being unpatentable over Corder in view of U.S. Patent No. 6,077,085 to Parry et al. (hereinafter "Parry") and the rejection of Claims 101, 111, 121 and 131 under 35 USC 103(a) as being unpatentable over Corder, Applicant respectfully traverses these rejections. In

particular, the prior art cited by the Examiner does not anticipate nor render obvious the claims of this application for the reasons set forth below. Therefore, the claims of this application are allowable over the prior art cited by the Examiner and early allowance of the application is respectfully requested.

Arguments

Claims 1, 19, 37, 55, 57, 74-81, 93 – 95, 100, 104-5, 110, 114-115, 120, 124- 5 and 130

Corder does not disclose the invention as recited in Claims 1, 19, 37 and 55, 57, 74-81, 93 – 95, 100, 104-5, 110, 114-115, 120, 124- 5 and 130. These claims are system, method , server and apparatus claims which contain similar elements. These claims are not anticipated by Corder for at least the reason that these claims recite “one or more tests for determining deficiencies in one or more reading and pre-reading skills.”

Corder does not disclose these claimed tests. Corder discloses a method and system for diagnosing and remediating a deficiency in communications skills wherein one or more different sensory channels, such as seeing, hearing, speaking, touching or kinetic moving are tested as set forth in Col. 2, lines 33 – 36. Corder attempts to identify strengths and weaknesses in a student’s ability to use these different sensory channels (See Abstract.) Corder is not a system for determining deficiencies in one or more **reading and pre-reading skills**. At Col. 2:64 – 3:11, Corder describes that “It is the object of this invention to utility computer technology to integrate multi-sensory stimuli in a comprehensive system”, “testing for advancement of communications skills in spoken, written, aural, visual or tactile modes in any of an unlimited number of languages”, “identifying deficiencies in the sets of skills utilized in connection with each of the sensor channels and to remediate any such deficiencies” and “developing skills which allow the student to learn by efficient utilization of multiple sensory channels.” Thus, it is clear that Corder describes a system for identifying weaknesses and strengths of these sensory channels and does not describe a system for determining deficiencies in one or more **reading and pre-reading skills**.

As further support, Corder at Col. 8: 29-59 describes the methodology that Corder’s system is using to identify these strengths and weaknesses of the sensory channels. In particular, Col. 8, lines 51-59 clearly describes: “A person might have a deficiency in one particular sensory

or motor learning channel, for example, vision. In this case, one or more of the student's other leaning channels become intertwined and form new ways of leaning. In the process, weak channels become stronger through being involved, even if in a limited way, with the learning activity. Handicapped students deprived of one or more channels can still learn through compensatory mechanisms." Furthermore, throughout Corder's description, the testing of sensory channels are described so that his system is intended to diagnose deficiencies of the five sensory channels. For example, "...the first step in the method of the present invention is the selection of the channel of learning to be tested" (Col. 10: 50-52); and "A test in this area provides information for determining deficiencies in the auditory channel of learning." (Col. 10: 64-65).

The Examiner cites Col. 11:59 – Col. 12:25 as support that Corder describes the claimed system. This section provides 1) an example of how the user can select a different screen option to meet his/her needs for learning: "An example of this is letting the student interactively change the volume level or the screen colors" (Col. 12: 1-2); and 2) why this data should be collected: "Changes made by the student are documented and stored to memory since they may contain clues to potential learning deficiencies." (Col. 12: 2-4). These "learning deficiencies" of Corder relate to the sensory abilities, such as if a student can hear instruction when the volume is low or if a student can see instructions when the screen color is green, etc. The Corder system also records something like "how many times each key is pressed or each icon is clicked... The sequence of the key strokes/mouse clicks" (Col. 12: 13-15) etc. in order for the teacher to understand "the special needs of the student" (Col. 12: 19-20) and to determine "what and how material is presented to that student in future learning sessions." (Col. 12: 23-24) Thus, with Corder, if a student is detected to have deficiencies in hearing, the instructional material will be presented to him not only using hearing learning channel but other sensory channels as well to ensure that learning occurs to the student.

Using the Corder system, according to Col. 7, lines 54 – 57 which were cited by the Examiner, a teacher (e.g., a person with some training) uses the information from the diagnostic testing in combination with the knowledge of the student's age and ability to determine a lesson plan. In more detail, the diagnostic test mentioned in Col. 7: 51-52 is not used to test students' reading or pre-reading skills, but to evaluate "each student's stimulus/response pattern" (Col. 7:

53-54) so that each student's "optimal cognitive learning modes" is established (Col. 7: 54-55) and the teacher can "determine lesson plans for the student." (Col. 7: 56-57.)

Col. 14, lines 19-64, which was cited by the Examiner to support her assertion that Corder describes the claimed invention, describes the diagnostic test formats for testing a learner's **hearing learning channel** (Col. 13: 30-31). In fact, all the test formats described in the paragraph (Col. 14: 19-64) are used for diagnosing sensory channel deficiencies and do not diagnose the claimed pre-reading and reading skills. Therefore Claims 1, 19, 37 and 55, 57, 74-81, 93 – 95, 100, 104-5, 110, 114-115, 120, 124- 5 and 130 are allowable over Corder.

The claims which depend from Claims 1, 19, 37 and 55 , 57, 74-81, 93 – 95, 100, 104-5, 110, 114-115, 120, 124- 5 and 130 are allowable over Corder for at least the same reasons as the independent claims.

Claims 5, 23, 41 and 60

In addition to the reason that these claims depend from the independent claims above, Claims 5, 23, 41 and 60 also are not anticipated by Corder because the claims recite "a speech recognition device for receiving and interpreting a verbal response from the user to the one or more tests." The Examiner cites Col. 10, lines 36- 44 for support that Corder describes a speech recognition device. All the computer components listed in Col. 10: 36-44 are known and any computer-based training programs need to use these components to communicate with the learner. However, Corder does not mention that a speech recognition device is used for the same purpose as the claimed speech recognition device. In particular, the sound digitizer of Corder's system is used to "digitally record the student's speech" (Col. 4: 1), which is for recording purposes; and the voice analysis hardware and software of Corder are used to analyze voice, not pronunciation of phonemes or words. The claimed speech recognition device receives and interprets a learner's pronunciation to analyze, for example, if the learner can speak the name of each item correctly that appears on the screen in rapid succession (See Page 11, lines 21 – 30 for support of the claimed speech recognition element.) Thus, the voice input device that Corder describes is a typical voice recording device which has the function of recording and digitizing oral responses from the learner. The voice recording device of Corder does not interpret the voice input in contrast to a speech recognition device. Thus, the voice input device described in

Corder is very different from the claimed speech recognition device. Therefore, Claims 5, 23, 41 and 60 are allowable over Corder.

Claims 7, 25, 43 and 62

In addition to the reason that these claims depend from the independent claims above, Claims 7, 25, 43 and 62 also are not anticipated by Corder because the claims recite “a rhyme recognition test further comprising means for providing at least two stimuli to the user and means for receiving user input in response to the at least two stimuli to determine the user's ability to recognize rhyming words.” Corder describes “recognizing rhyming words” at Col. 13, line 64 as cited by the Examiner. The portion cited by the Examiner has been taken out of context since Col. 13, lines 49 – 57 make it clear that the recognizing rhyming word is associated with a diagnostic test given by a teacher in which the user's auditory discrimination and auditory memory aspects of the auditory channel of learning are tested. Thus, the “recognizing rhyming words” in Corder is used as one of the tools to diagnose deficiencies of a learner's hearing learning channel. In contrast, the claimed test diagnoses the user's ability to recognize rhyming words and actually test that ability. In contrast, Corder uses rhyming recognition to test the user's hearing channel which would not test the user's skills at rhyming. Therefore, Claims 7, 25, 43 and 62 are allowable over Corder.

Claims 8 – 10, 26- 28, 44- 46 and 63- 65

In addition to the reason that these claims depend from the independent claims above, Claims 8 – 10, 26- 28, 44- 46 and 63- 65 also are not anticipated by Corder because the claims recite a test for recognizing the beginning sound of a stimulus, a test for recognizing the ending sound of a stimulus, and a rhyme generation test, respectively. As with Claim 7 above, the portion cited by the Examiner (Col. 14, line 1; Col. 14, line 2 and Col. 13, line 51- 64, respectively) describe portions of the diagnosis test for the hearing channel, but do not describe the tests recited in the claims. Corder also does not describe the specific elements of each test set forth in the claims. Therefore, Claims 8 – 10, 26- 28, 44- 46 and 63- 65 are allowable over Corder.

Claims 11, 29, 47 and 66

In addition to the reason that these claims depend from the independent claims above, Claims 11, 29, 47 and 66 also are not anticipated by Corder because the claims recite “a sound blender test comprising means for generating at least two sound stimuli and means for receiving a user response to the at least two sound stimuli, the response indicating an ability to blend the at least two sound stimuli into a larger sound unit.” These claims are allowable for at least same reason as Claim 7 above in that the “identifying medial sounds in words” of Corder (Col. 14, line 3) is part of the hearing channel diagnosis test. Furthermore, “medial sounds” are sounds in the middle of a word, such as the sounds /a/ in the word “cat”. A medial sound does not somehow infer the claimed sound blender (blending) test. In particular, a sound blender test is used to test a learner’s pre-reading skill of blending sounds into a word, syllables into a word, or two words into a compound word. For example, three sounds c-a-t should be blended into a word “cat”. This sound blending test is not described by Corder. Therefore, Claims 11, 29, 47 and 66 are allowable over Corder.

Claims 12, 30, 48 and 67

In addition to the reason that these claims depend from the independent claims above, Claims 12, 30, 48 and 67 also are not anticipated by Corder because the claims recite “a sound segmentation test comprising means for generating at least one stimulus and means for receiving a response to the stimulus comprising means for segmenting the stimulus into smaller units in order to test the ability to segment the stimulus into smaller units.” These claims are allowable for at least same reason as Claim 7 above in that the “identifying sounds in words” of Corder (Col. 13, lines 66-7) is part of the hearing channel diagnosis test. Furthermore, identifying sounds in words do not test a learner’s pre-reading skills of separating-sounds-in-a-word, syllables in a word, words in a compound words, or separating words in a sentence. For example, a word cat can be segmented into three sounds c-a-t. Corder does not disclose the claimed sound segmentation test.

Claims 13, 31, 49 and 68

In addition to the reason that these claims depend from the independent claims above, Claims 13, 31, 49 and 68 also are not anticipated by Corder because the claims recite “a sound

manipulation test comprising means for generating a sound stimulus having one or more sound units and means, in response to the sound stimulus, for manipulating the sound units of the sound stimulus to test the ability to manipulate sound units.” The Examiners cites Col. 14, lines 31 – 64 for the proposition that Corder describes the claimed sound manipulation test. However, all of the approaches described in the cited portion are used as a tool to diagnose deficiencies of a learner’s hearing learning channel. The methods in Corder include given one picture and multiple sounds, the learner is required to press the key on the keyboard when he/she hears the sound that associates the picture on the screen; or moving pictures on the screen etc. None of the approaches described in Corder in the claimed sound manipulation test in which sound units of the sound are manipulated. An example of sound manipulation might be that the user is given a word “take,” when another word “cake” is pronounced, the learner should be able to replace /t/ in “take” with /k/ in “cake.” ✓

Claims 99, 102, 109, 112, 119, 122, 129 and 132

Corder does not anticipate Claims 99, 102, 109, 112, 119, 122, 129 and 132 because these claims recite “tracking, over time, the proficiency of the user’s phonological skills and establishing the baseline abilities of the user.” The Examiner cites Col. 12, lines 18 – 25 for supporting the proposition that Corder describes this aspect. However, in Corder, “Trend analysis identifies improvement in the student’s performance over time. These improvements modify what and how materials is presented to that student in future learning sessions.” As described above, Corder’s system evaluates “each student’s stimulus/response pattern” (Col. 7: 53-54) so that each student’s “optimal cognitive learning modes” is established (Col. 7: 54-55) and the teacher can “determine lesson plans for the student” (Col. 7: 56-57) which is the “trend analysis” of Corder. In contrast, the claims recite “tracking, over time, the proficiency of the user’s phonological skills and establishing the baseline abilities of the user.” Corder’s system does not analyze the student’s specific deficiencies of phonological skills, nor tracks the proficiency of the user’s phonological skills, so his system will not be able to establish the baseline ability of the user of reading and pre-reading skills. His system can only help the teacher to determine different lesson plans for different students who have weakness in different sensory channel(s). Therefore, Claims 99, 102, 109, 112, 119, 122, 129 and 132 are allowable over Corder. ✓

Claims 14, 32, 50 and 69

In addition to the reason that these claims depend from the independent claims above, Claims 14, 32, 50 and 69 also are not unpatentable over Corder or Parry because the claims recite “a verbal recall test comprising means for generating at least one sound stimulus and means, in response to the at least one sound stimulus, for receiving a user response indicating the recalling of the at least one sound stimulus.” The Examiner cites to Col. 24, line 61 – Col. 25, line 13 for support that Parry describes a verbal recall test. However, that section describes an order parts activity. This activity in Parry requires the student to link fragments of a phrase or a sentence in the right sequence. According to the description of Col. 23, line 17 – Col. 25: 13, an example of this activity could be that the user is given the two parts of a sentence “a student” and “I am” visually on the screen and the learner is expected to link the two parts in the right sequence so it reads “I am a student.” This test does not test a learner’s “verbal-recall” skills but grammar skills. Therefore, Claims 14, 32, 50 and 69 are allowable over Corder and Parry. ✓

Claims 17, 35, 53 and 72

In addition to the reason that these claims depend from the independent claims above, Claims 17, 35, 53 and 72 also are not unpatentable over Corder or Parry because the claims recite “a word decoder test comprising means for displaying a visual stimulus to the user and means, in response to the visual stimulus, for receiving a response from the user to determine the ability to read the visual stimulus.” The Examiner asserts that Parry describes a claimed word decoder test. Parry’s system does not have a word decoder test. A word decoder test trains the student’s decoding skills. For example, given a word “bridge” that the student has never seen before, the student will be able to pronounce it based on his/her decoding skills. However, in Parry at Col. 13: 13-20 it describes a quite different learning strategy: flash cards. Flash cards are a common instructional strategy especially used for language learning. On one side of the card is a word, a phrase, or a sentence of the foreign language that the student is learning and on the other side of the card is a corresponding word, phrase, or sentence in the learner’s native language. If the learner cannot recall what the foreign language means, he/she flips the card to see the answer in his native language. The word “deselect” (an antonym of select) in Col. 13: 19 means that the learner can turn the native language off. However, the training provided by these ✓

flash cards is not decoding of words. Therefore, Claims 17, 35, 53 and 72 are patentable over Corder and Parry.

CONCLUSION

In view of the above arguments, it is respectfully submitted that Claims 1, 3- 19, 21- 37, 39 – 55, and 57- 133 are allowable over the prior art cited by the Examiner for the reasons set forth above and early allowance of the application is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 07-1896. The Examiner is invited to contact Applicant's Attorney at (650) 320-7426 if there are any questions or if the Examiner feels that a telephone conference will speed the prosecution of this application.

Respectfully submitted,

GRAY CARY WARE & FREIDENRICH LLP

Dated: April 2, 2003

By



Timothy W. Lohse
Attorney for Applicant
Reg. No. 35,255

GRAY CARY WARE & FREIDENRICH LLP
Attn: Patent Department
1755 Embarcadero Road
Palo Alto, CA 94303
Telephone: (650) 320-7426